

First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

SENATE ENROLLED ACT No. 149

AN ACT to amend the Indiana Code concerning pensions.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 5-10.2-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) The annuity savings account consists of:

- (1) the members' contributions; and
- (2) the interest credits on these contributions in the guaranteed fund or the gain or loss in market value on these contributions in the alternative investment program, as specified in section 4 of this chapter.

Each member shall be credited individually with the amount of the member's contributions and interest credits.

(b) Each board shall maintain the annuity savings account program in effect on December 31, 1995 (referred to in this chapter as the guaranteed program). In addition, the board of the Indiana state teachers' retirement fund shall establish and maintain a guaranteed program within the 1996 account. Each board may establish investment guidelines and limits on all types of investments (including, but not limited to, stocks and bonds) and take other actions necessary to fulfill its duty as a fiduciary of the annuity savings account, subject to the limitations and restrictions set forth in IC 5-10.3-5-3 and IC 21-6.1-3-9.

(c) Each board shall establish alternative investment programs within the annuity savings account of the public employees' retirement fund, the pre-1996 account, and the 1996 account, based on the

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following requirements:

- (1) Each board shall maintain at least one (1) alternative investment program that is an indexed stock fund and one (1) alternative investment program that is a bond fund.
- (2) The programs should represent a variety of investment objectives under IC 5-10.3-5-3.
- (3) No program may permit a member to withdraw money from the member's account except as provided in IC 5-10.2-3 and IC 5-10.2-4.
- (4) All administrative costs of each alternative program shall be paid from the earnings on that program **or as may be determined by the rules of each board.**
- (5) A valuation of each member's account must be completed as of:

- (A) the last day of each quarter; **or**

- (B) **another time as each board may specify by rule.**

(d) The board must prepare, at least annually, an analysis of the guaranteed program and each alternative investment program. This analysis must:

- (1) include a description of the procedure for selecting an alternative investment program;
- (2) be understandable by the majority of members; and
- (3) include a description of prior investment performance.

(e) A member may direct the allocation of the amount credited to the member among the guaranteed fund and any available alternative investment funds, subject to the following conditions:

- (1) A member may make a selection or change an existing selection under rules established by each board. A board shall allow a member to make a selection or change any existing selection at least once each quarter.
- (2) The board shall implement the member's selection beginning the first day of the next calendar quarter that begins at least thirty (30) days after the selection is received by the board **or an alternate date established by the rules of each board.** This date is the effective date of the member's selection.
- (3) A member may select any combination of the guaranteed fund or any available alternative investment funds, in ten percent (10%) increments **or smaller increments that may be established by the rules of each board.**
- (4) A member's selection remains in effect until a new selection is made.
- (5) On the effective date of a member's selection, the board shall

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reallocate the member's existing balance or balances in accordance with the member's direction, based on:

- (A) for an alternative investment program balance, the market value on the effective date; and
- (B) for any guaranteed program balance, the account balance on the effective date.

All contributions to the member's account shall be allocated as of the last day of that quarter **or at an alternate time established by the rules of each board** in accordance with the member's most recent effective direction. The board shall not reallocate the member's account at any other time.

(f) When a member who participates in an alternative investment program transfers the amount credited to the member from one (1) alternative investment program to another alternative investment program or to the guaranteed program, the amount credited to the member shall be valued at the market value of the member's investment, as of the day before the effective date of the member's selection **or at an alternate time established by the rules of each board**. When a member who participates in an alternative investment program retires, becomes disabled, dies, or suspends membership and withdraws from the fund, the amount credited to the member shall be the market value of the member's investment as of the last day of the quarter preceding the member's distribution or annuitization at retirement, disability, death, or suspension and withdrawal, plus contributions received after that date **or at an alternate time established by the rules of each board**.

(g) When a member who participates in the guaranteed program transfers the amount credited to the member to an alternative investment program, the amount credited to the member in the guaranteed program is computed without regard to market value and is based on the balance of the member's account in the guaranteed program as of the last day of the quarter preceding the effective date of the transfer. **However, each board may by rule provide for an alternate valuation date.** When a member who participates in the guaranteed program retires, becomes disabled, dies, or suspends membership and withdraws from the fund, the amount credited to the member shall be computed without regard to market value and is based on the balance of the member's account in the guaranteed program as of the last day of the quarter preceding the member's distribution or annuitization at retirement, disability, death, or suspension and withdrawal, plus any contributions received since that date plus interest since that date. **However, each board may by rule provide for an**

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alternate valuation date.

SECTION 2. IC 5-10.2-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) Unless a member elects otherwise under this section, the retirement benefit for each member consists of the sum of a pension provided by employer contributions plus an annuity provided by the amount credited to the member in the annuity savings account.

(b) A member may choose at retirement or upon a disability retirement to receive a distribution of:

- (1) the entire amount credited to the member in the annuity savings account; or
- (2) an amount equal to the member's federal income tax basis in the member's annuity savings account balance as it existed on December 31, 1986.

If the member chooses to receive the distribution under subdivision (1), the member is not entitled to an annuity as part of the retirement or disability benefit. If the member chooses to receive the distribution under subdivision (2), the member is entitled to an annuity purchasable by the amount remaining in the member's annuity savings account after the payment under subdivision (2).

(c) Instead of choosing to receive the benefits described in subsection (a) or (b), a member may choose upon retirement or upon disability retirement to begin receiving a pension provided by employer contributions and to defer receiving in any form the member's annuity savings account. If a member chooses this option, the member:

- (1) is not entitled to an annuity as part of the member's retirement or disability benefit, and the member's annuity savings account will continue to be invested according to the member's direction under IC 5-10.2-2-3; and
- (2) may later choose, as of the first day of a month, **or an alternate date established by the rules of each board**, to receive a distribution of:

- (A) the entire amount credited to the member in the annuity savings account; or
- (B) an amount equal to the member's federal income tax basis in the member's annuity savings account balance as it existed on December 31, 1986.

If the member chooses to receive the distribution under subdivision (2)(A), the member is not entitled to an annuity as part of the member's retirement or disability benefit. If the member chooses to receive the distribution under subdivision (2)(B), the member is entitled to an annuity purchasable by the amount remaining in the member's annuity

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savings account after the payment under subdivision (2)(B). If the member does not choose to receive a distribution under this subsection, the member is entitled to an annuity purchasable by the entire amount in the member's annuity savings account, and the form of the annuity shall be as described in subsection (d) unless the member elects an option described in section 7(b)(1), 7(b)(2), or 7(b)(4) of this chapter. The amount to be paid under this section shall be determined in the manner described in IC 5-10.2-2-3, except that it shall be determined as of the last day of the quarter preceding the member's actual distribution or annuitization date. **However, each board may by rule provide for an alternate valuation date.**

(d) Retirement benefits must be distributed in a manner that complies with Section 401(a)(9) of the Internal Revenue Code, as specified in IC 5-10.2-2-1.5.

SECTION 3. IC 5-10.2-4-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. (a) As used in this section, "exempt amount" means, in the case of a member who has not attained the Social Security normal retirement age for unreduced benefits, ~~twenty-five~~ **thirty-five** thousand dollars (~~\$25,000~~), **(\$35,000)**, computed for the calendar year in which a retired public employees' retirement fund member is reemployed and computed for the fiscal year in which a retired teachers' retirement fund member is reemployed.

(b) This subsection does not apply to a member who is employed by the department of education. If a member who is receiving retirement benefits and who has not attained the Social Security normal retirement age for unreduced benefits:

- (1) becomes reemployed in a position covered by this article; and
- (2) earns in that position more than the exempt amount;

his retirement benefit payments shall stop, and the member shall begin making contributions as required in IC 5-10.2-3-2. However, employer contributions shall be made throughout the period of reemployment. The earnings limitation under this subsection does not apply to a member who has attained the Social Security normal retirement age for unreduced benefits.

(c) If a member who is receiving retirement benefits is reemployed in a position covered by this article not more than ninety (90) days after the member's retirement, the member's retirement benefits shall stop, the member shall begin making contributions as required by IC 5-10.2-3-2, and employer contributions shall be made throughout the period of reemployment.

(d) If a retired member is reemployed in a position covered by this article, section 10 of this chapter applies to the member upon the

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member's retirement from reemployment.

SECTION 4. IC 5-10.3-3-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) The board is composed of **six (6) trustees**.

(b) Five (5) of the trustees shall be appointed by the governor, as follows:

(1) One (1) ~~of whom~~ must be a member of the fund with at least ten (10) years of creditable service.

(2) Not more than three (3) ~~of whom~~ may be members of the same political party. ~~and~~

(3) One (1) ~~of whom~~ must be:

(A) a: ~~member of:~~

(i) member of the fund or retired member of the fund; or

(ii) member of a collective bargaining unit of state employees represented by a labor organization; or

(B) an **individual who is:**

(i) an officer or a member of a local, a national, or an international labor union that represents state employees; or university employees; and

(ii) an Indiana resident.

(c) The director of the budget agency or the director's designee is an ex officio voting member of the board. An individual appointed under this subsection to serve as the director's designee:

(1) is subject to the provisions of section 3 of this chapter; and

(2) serves as a permanent designee until replaced by the director.

~~(b)~~ **(d)** The governor shall fill by appointment vacancies on the board in the manner described in subsection ~~(a)~~ of this section: **(b).**

~~(c)~~ **(e)** In making the appointments under subsection ~~(a)~~, **(b)(1)** or **(b)(2)**, the governor may consider whether at least one (1) trustee is a retired member of the fund **under subsection (b)(3)(A)(i).**

SECTION 5. IC 5-10.3-3-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. **(a) Each trustee who is not a state officer or employee is entitled to receive compensation of four hundred fifty dollars (\$450) on October 1, January 1, April 1, and June 30. In addition, the board shall reimburse each trustee reimbursement for necessary expenses actually incurred through service on the board.**

(b) Each trustee who is a state officer or employee is entitled to reimbursement for necessary expenses actually incurred through service on the board.

SECTION 6. IC 5-10.3-3-6 IS AMENDED TO READ AS



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FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. ~~Voting, Quorum.~~
~~Three (3)~~ **Four (4)** trustees constitute a quorum for the transaction of business. Each trustee is entitled to one (1) vote on the board. A majority vote is sufficient for adoption of a resolution or other action at regular or special meetings.

SECTION 7. IC 5-10.3-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. ~~The Auditor of State.~~
 The auditor of state shall draw warrants upon the treasurer of state in payment of properly prepared vouchers signed by:

- (1) a trustee of the fund, ~~or except for the director of the budget agency or the director's designee;~~
- (2) the director; or
- (3) an assistant designated by the director;

as may be designated by the board.

SECTION 8. IC 21-6.1-3-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. ~~Composition;~~
~~Appointment.~~ (a) The board of trustees is composed of ~~five (5)~~ **six (6)** persons.

(b) ~~Five (5) of the trustees shall be appointed by the governor. Not less than two (2) of whom are the trustees appointed by the governor must be~~ members of the fund. The governor shall make these appointments after June 30 and before July 16 each year.

(c) **The director of the budget agency or the director's designee is an ex officio voting member of the board. An individual appointed under this subsection to serve as the director's designee serves as a permanent designee until replaced by the director.**

SECTION 9. IC 21-6.1-3-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. (a) On the board's order:

- (1) the trustees **who are not state officers or employees** shall receive the same per diem, mileage, and travel allowances paid to members of the general assembly serving on interim study committees established by the legislative council; **and**
- (2) **the trustees who are state officers or employees are entitled to reimbursement for necessary expenses actually incurred through service on the board.**

These costs shall be paid from resources at the disposal of the fund.

(b) Special meetings may be conducted on the call of the president or on the signed call of three (3) trustees.

(c) A majority of the board constitutes a quorum at any meeting for transacting business.

SECTION 10. [EFFECTIVE JULY 1, 2005] **IC 5-10.2-4-8, as**



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amended by this act, applies to:

- (1) fiscal years that begin after June 30, 2005, for teachers' retirement fund members; and
- (2) calendar years that begin after December 31, 2005, for public employees' retirement fund members.

SECTION 11. [EFFECTIVE JULY 1, 2005] Interest credited prior to July 1, 2005, in the annuity savings account of the public employees' retirement fund to suspended members participating in the guaranteed fund under IC 5-10.2-2-3 shall be treated as properly credited.

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President of the Senate

President Pro Tempore

Speaker of the House of Representatives

Approved: _____

Governor of the State of Indiana

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SEA 149 — Concur+

